

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34845]

Indiana Boxcar Corporation–Acquisition of Control Exemption–Tishomingo Railroad Company, Incorporated

Indiana Boxcar Corporation (INBC),<sup>1</sup> has filed a verified notice of exemption<sup>2</sup> to acquire control of Tishomingo Railroad Company, Incorporated (Tishomingo), a Class III rail carrier.<sup>3</sup> According to INBC, INBC and Vintage Locomotives, Incorporated (Vintage), a noncarrier, have entered into a letter of intent with the owners of Tishomingo to acquire control of Tishomingo, and INBC will submit a copy of the executed agreement under seal as soon as it is available. INBC states that, while INBC and Vintage will each purchase 50% of Tishomingo's stock, only INBC will be involved in the management of Tishomingo.

The transaction was expected to be consummated on April 1, 2006.

INBC states that: (1) the properties presently owned, operated, or managed and the properties to be owned, operated, or managed by INBC do not physically connect;

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<sup>1</sup> INBC currently controls two other Class III carriers: Vermilion Valley Railroad Company, Inc., and the Chesapeake & Indiana Railroad Company, Inc.

<sup>2</sup> On April 10, 2006, INBC filed an amendment to page 4 of the notice of exemption.

<sup>3</sup> INBC concurrently filed a motion for protective order to protect certain confidential documents and information in connection with its notice of exemption. A protective order in this proceeding was served on April 12, 2006.

(2) there are no plans to acquire additional rail lines for the purpose of making a connection; and (3) the carriers are all Class III carriers. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III carriers.

If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34845, must be filed with the Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of all pleadings must be served on John D. Heffner, 1920 N Street, N.W., Suite 800, Washington, DC 20036.

Board decisions and notices are available on our website at “[WWW.STB.DOT.GOV](http://WWW.STB.DOT.GOV).”

Decided: April 12, 2006.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary